

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	CRIMINAL NO. 4:07CR76(7)
v.	§	
	§	
TALBERT DEAN LONG	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on June 22, 2010 to determine whether the Defendant violated his supervised release. The Defendant was represented by Carlo D'Angelo. The Government was represented by Miriam Rea. On June 29 and July 8, 2010, the Court conducted continuations of the hearing on the matter of Defendant's proposed sentence.

On May 1, 2008, the Defendant was sentenced by the Honorable Richard A. Schell, United States District Judge, to an adjusted sentence of 3 months imprisonment followed by a 3-year term of supervised release for the offense of conspiracy to possess with intent to manufacture and distribute methamphetamine. Defendant began his term of supervision on June 12, 2009.

On June 2, 2010, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (Dkt. 645). The petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; (2) Defendant shall participate in a program of testing and treatment for substance abuse and/or alcohol abuse, as directed by the probation officer, until such time as Defendant is released from the program by the probation officer; (3) under the guidance and direction of the U.S. Probation Office, Defendant shall participate in any combination of psychiatric, psychological, or mental health treatment as deemed appropriate by the treatment provider; (4) Defendant shall reside in and participate in the community corrections component of a Community Corrections Center, as instructed, until discharged by the center director but no longer than 180 days from admission, and Defendant shall abide by all the rules and regulations of the center; and (5) Defendant shall totally abstain from the use of alcohol.

The petition alleges that Defendant committed the following violations: (1) on August 26, 2009, Defendant submitted a urine specimen which tested positive for marijuana; (2) on October 6, 2009, Defendant submitted a urine specimen which tested positive for marijuana; (3) on October 8, 2009, Defendant failed to participate in treatment for drug abuse; (4) on April 27, 2010, Defendant failed to participate in treatment for mental health and later reported that he forgot about his appointment with the mental health treatment provider; (5) on May 15, 2010, Defendant was asked to participate in a random Alco-Sensor III Intoximeter Test at the County Rehabilitation Center in

Tyler, Texas, the first reading was administered at 2010 hours with a reading of .197% BAC, the second reading was administered at 2025 hours with a reading of .103% BAC, and Defendant admitted to drinking alcohol at the County Rehabilitation Center; and (6) on May 17, 2010, Defendant was unsuccessfully discharged from the County Rehabilitation Center in Tyler, Texas for violating the halfway house rules.

At the hearing, Defendant entered a plea of true to the alleged violations of conditions of his supervised release. The Court finds that Defendant has violated the terms of his supervised release. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and in accordance with the parties' proposal, the Court recommends that the Defendant be committed to of the Bureau of Prisons to be imprisoned for a term of 7 months, no supervised release to follow.

SIGNED this 8th day of July, 2010.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE